

686 Fed.Appx. 889 (Mem)

This case was not selected for publication in West's Federal Reporter. See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also U.S.Ct. of App. Fed. Cir. Rule 32.1. United States Court of Appeals, Federal Circuit.

ROMAG FASTENERS, INC., Plaintiff-Appellant

v.

FOSSIL, INC., Fossil Stores I, Inc., Macy's, Inc., Macy's Retail Holdings, Inc., Belk, Inc., The Bon-Ton Stores, Inc., The Bon-Ton Department Stores, Inc., Dillard's, Inc., Nordstrom, Inc., Zappos.com, Inc., Zappos Retail, Inc., Defendants-Cross-Appellants

2014-1856

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2014-1857

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May 3, 2017

Appeals from the United States District Court for the District of Connecticut in No. 3:10-cv-01827-JBA, 3:11-cv-00929- CFD, Judge Janet Bond Arterton.

Attorneys and Law Firms

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Before [Dyk](#), [Wallach](#), and [Hughes](#), Circuit Judges.

***890 ORDER**

Per Curiam.

The court has received a certified copy of the judgment from the Clerk of the Supreme Court of the United States in [Romag Fasteners, Inc. v. Fossil, Inc., et al.](#), — U.S. —, 137 S.Ct. 1373, 197 L.Ed.2d 550 (2017). The Supreme Court granted certiorari, vacated, and remanded for further consideration our March 31, 2016 judgment in light of [SCA Hygiene Products Aktiebolag v. First Quality Baby Products, LLC](#), 580 U.S. —, 137 S.Ct. 954, 197 L.Ed.2d 292 (2017).

The Supreme Court's [SCA Hygiene](#) decision was solely concerned with the defense of laches against a claim for patent infringement damages and does not affect other aspects of our earlier opinion. *Id.* at 16. As such, we reinstate our earlier opinion except for section I. See [WesternGeco LLC v. ION Geophysical Corp.](#), 837 F.3d 1358, 1361 (Fed. Cir. 2016). Section I of our earlier opinion was specifically directed to the defense of laches.

Upon consideration thereof,

IT IS ORDERED THAT:

- (1) The mandate issued on May 9, 2016, is hereby recalled and the appeal is reinstated.
- (2) The June 27, 2014 judgment of the United States District Court for the District of Connecticut reducing Romag's jury award patent damages by eighteen percent due to the defense of laches is vacated. Under the Supreme Court's decision in [SCA Hygiene](#), laches is not a defense to patent infringement within the statutory period.
- (3) The case is remanded to that court to correct the damages judgment amount consistent with the Supreme Court's opinion.
- (4) We hereby reinstate those aspects of our earlier decision and judgment set forth in sections II–III of our earlier opinion, [Romag Fasteners, Inc. v. Fossil, Inc.](#), 817 F.3d 782 (Fed. Cir. 2016), affirming the district court's judgment declining to award Fossil's profits, which were not affected by the Supreme Court's order.
- (5) Costs to neither party.

All Citations

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